

**[DISCUSSION DRAFT]**

JUNE 17, 2004

108TH CONGRESS  
2D SESSION**H. R.** \_\_\_\_\_

To implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

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**IN THE HOUSE OF REPRESENTATIVES**

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stockholm and Rot-  
3 terdam Toxics Treaty Act of 2004”.

4 **SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-**  
5 **MENTS.**

6 The Toxic Substances Control Act (15 U.S.C. 2601  
7 et seq.) is amended by adding at the end the following:

8 **“TITLE V—IMPLEMENTATION OF**  
9 **INTERNATIONAL AGREEMENTS**

10 **“SEC. 501. DEFINITIONS.**

11 “In this title:

12 “(1) CONFERENCE.—The term ‘Conference’  
13 means the Conference of the Parties established by  
14 paragraph 1 of Article 19 of the POPs Convention.

15 “(2) CONFERENCE LISTING DECISION.—The  
16 term ‘Conference listing decision’ means a decision  
17 by the Conference to approve an amendment to list  
18 a chemical substance or mixture in Annex A or B  
19 to the POPs Convention.

20 “(3) EXECUTIVE BODY.—The term ‘Executive  
21 Body’ means the Executive Body established by Ar-  
22 ticle 10 of the LRTAP Convention.

23 “(4) EXECUTIVE BODY DECISION 1998/2.—The  
24 term ‘Executive Body Decision 1998/2’ means the  
25 decision of the Executive Body titled ‘Executive  
26 Body Decision 1998/2 on Information to Be Sub-

1       mitted and the Procedure for Adding Substances to  
2       Annexes I, II, or III to the Protocol on Persistent  
3       Organic Pollutants’ and any other Executive Body  
4       decision done pursuant to Article 14 of the LRTAP  
5       POPs Protocol.

6           “(5) LRTAP CONVENTION.—The term  
7       ‘LRTAP Convention’ means the Convention on  
8       Long-Range Transboundary Air Pollution, done at  
9       Geneva on November 13, 1979 (TIAS 10541), and  
10       any subsequent amendment to which the United  
11       States consents to be bound.

12           “(6) LRTAP POPS CHEMICAL SUBSTANCE OR  
13       MIXTURE.—The term ‘LRTAP POPs chemical sub-  
14       stance or mixture’ means one of the following chem-  
15       ical substances or mixtures, as defined in section 3:

16           “(A) Aldrin.

17           “(B) Chlordane.

18           “(C) Chlordecone.

19           “(D)       Dichlorodiphenyltrichloroethane  
20       (DDT).

21           “(E) Dieldrin.

22           “(F) Endrin.

23           “(G) Hexachlorocyclohexane (HCH).

24           “(H) Heptachlor.

25           “(I) Hexachlorobenzene.

1 “(J) Hexabromobiphenyl.

2 “(K) Mirex.

3 “(L) Polychlorinated biphenyls (PCBs).

4 “(M) Toxaphene.

5 “(N) Any chemical substance or mixture  
6 that is listed on Annex I or Annex II of the  
7 LRTAP POPs Protocol.

8 “(7) LRTAP POPS PROTOCOL.—The term  
9 ‘LRTAP POPs Protocol’ means the Protocol on Per-  
10 sistent Organic Pollutants to the LRTAP Conven-  
11 tion, done at Aarhus on June 24, 1998, and any  
12 subsequent amendment to which the United States  
13 consents to be bound.

14 “(8) PIC CONVENTION.—The term ‘PIC Con-  
15 vention’ means the Rotterdam Convention on the  
16 Prior Informed Consent Procedure for Certain Haz-  
17 ardous Chemicals and Pesticides in International  
18 Trade, done at Rotterdam on September 10, 1998,  
19 and any subsequent amendment to which the United  
20 States consents to be bound.

21 “(9) POPS CHEMICAL SUBSTANCE OR MIX-  
22 TURE.—The term ‘POPs chemical substance or mix-  
23 ture’ means one of the following chemical substances  
24 or mixtures, as defined in section 3:

25 “(A) Aldrin.

1 “(B) Chlordane.

2 “(C) Dichlorodiphenyltrichloroethane  
3 (DDT).

4 “(D) Dieldrin.

5 “(E) Endrin.

6 “(F) Heptachlor.

7 “(G) Hexachlorobenzene.

8 “(H) Mirex.

9 “(I) Polychlorinated biphenyls (PCBs).

10 “(J) Toxaphene.

11 “(K) Any other chemical substance or mix-  
12 ture that is listed in Annex A or B to the POPs  
13 Convention.

14 “(10) POPs CONVENTION.—The term ‘POPs  
15 Convention’ means the Stockholm Convention on  
16 Persistent Organic Pollutants, done at Stockholm on  
17 May 22, 2001, and any subsequent amendment to  
18 which the United States consents to be bound.

19 “(11) POPs REVIEW COMMITTEE.—The term  
20 ‘POPs Review Committee’ means the Persistent Or-  
21 ganic Pollutants Review Committee established  
22 under paragraph 6 of Article 19 of the POPs Con-  
23 vention.

1 **“SEC. 502. IMPLEMENTATION OF POPS CONVENTION AND**  
2 **LRTAP POPS PROTOCOL.**

3 “(a) PROHIBITION.—Except as otherwise provided in  
4 this title, no person may manufacture, process, distribute  
5 in commerce for export, use, or dispose of a POPs chem-  
6 ical substance or mixture listed in section 501(9) (A), (B),  
7 (C), (D), (E), (F), (G), (H), or (J), or a LRTAP POPs  
8 chemical substance or mixture listed in section 501(6)(A),  
9 (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (M).

10 “(b) EXCEPTIONS.—The Administrator may by rule  
11 provide for exceptions to the prohibition under subsection  
12 (a) where such exceptions are not inconsistent with the  
13 obligations of the United States under the POPs Conven-  
14 tion or the LRTAP POPs Protocol.

15 “(c) PCBs.—The Administrator may issue or amend  
16 rules applicable to polychlorinated biphenyls for the pur-  
17 pose of United States compliance with the provisions of  
18 the POPs Convention or the LRTAP POPs Protocol re-  
19 lated to polychlorinated biphenyls through rules duly pro-  
20 mulgated under section 6(e) or other applicable Federal  
21 law, only where the Administrator concludes, with the con-  
22 currence of the Secretary of State, that such rules or  
23 amendments are necessary for the United States to com-  
24 ply with its obligations under the POPs Convention or the  
25 LRTAP POPs Protocol.

1 **“SEC. 503. NOTICE, INFORMATION, RULEMAKING, AND EX-**  
2 **EMPTIONS.**

3 “(a) NOTICE THAT SCREENING CRITERIA ARE MET  
4 OR AFTER RISK PROFILE SUBMITTED.—

5 “(1) APPLICABILITY.—This subsection applies  
6 if—

7 “(A) the POPs Review Committee decides  
8 under paragraph 4(a) of Article 8 of the POPs  
9 Convention, that a proposal for listing a chem-  
10 ical substance or mixture in Annex A, B, or C  
11 to the POPs Convention fulfills the screening  
12 criteria specified in Annex D to the POPs Con-  
13 vention;

14 “(B) the Conference decides under para-  
15 graph 5 of Article 8 of the POPs Convention,  
16 that such a proposal shall proceed; or

17 “(C) if a party to the LRTAP POPs Pro-  
18 tocol submits to the Executive Body a risk pro-  
19 file in support of a proposal to list a chemical  
20 substance or mixture in Annex I, II, or III to  
21 the LRTAP POPs Protocol.

22 “(2) REQUIREMENT.—Not later than 60 days  
23 after the date of an action described in paragraph  
24 (1), the Administrator shall—

25 “(A) publish in the Federal Register a no-  
26 tice of the action; and

1           “(B) provide opportunity for public com-  
2           ment on the proposal or risk profile described  
3           in paragraph (1).

4           “(3) REQUIRED ELEMENTS OF NOTICE.—A no-  
5           tice under paragraph (2) shall include—

6           “(A) the identity of the chemical substance  
7           or mixture that is the subject of the proposal or  
8           risk profile described in paragraph (1);

9           “(B) a summary of the process, under the  
10          POPs Convention or the LRTAP POPs Pro-  
11          tocol, for the consideration of the action that  
12          was taken, including criteria applied in that  
13          process;

14          “(C) a summary of the POPs Review Com-  
15          mittee or Conference decisions to date on the  
16          proposed listing and the basis for the decisions;  
17          and

18          “(D) a summary of how the chemical sub-  
19          stance or mixture that is the subject of the ac-  
20          tion is currently regulated under the laws of the  
21          United States.

22          “(b) NOTICE THAT FURTHER CONSIDERATION OF  
23          CHEMICAL SUBSTANCE OR MIXTURE IS WARRANTED.—

24          “(1) APPLICABILITY.—This subsection applies  
25          if—

1           “(A) the POPs Review Committee decides,  
2           under paragraph 7(a) of Article 8 of the POPs  
3           Convention, that global action is warranted with  
4           respect to a chemical substance or mixture that  
5           is the subject of a proposal to list under an  
6           Annex to the POPs Convention;

7           “(B) the Conference decides, under para-  
8           graph 8 of that Article, that such a proposal  
9           shall proceed; or

10           “(C) the Executive Body determines pur-  
11           suant to paragraph 2 of Executive Body Deci-  
12           sion 1998/2 that further consideration of a  
13           chemical substance or mixture is warranted,  
14           and therefore requires one or more technical re-  
15           views of the proposal.

16           “(2) NOTICE.—Not later than 60 days after the  
17           date on which a decision or determination is made  
18           under paragraph (1), the Administrator shall—

19           “(A) publish in the Federal Register a no-  
20           tice of the decision or determination; and

21           “(B) provide opportunity for public com-  
22           ment on the decision or determination.

23           “(3) REQUIRED ELEMENTS OF NOTICE.—A no-  
24           tice under paragraph (2) shall—

1           “(A) identify the chemical substance or  
2 mixture that is the subject of the proposal;

3           “(B) include a summary of—

4                 “(i) the POPs Review Committee or  
5 Conference decision, and the basis for the  
6 decision, in the case of a decision described  
7 in paragraph (1)(A) or (B);

8                 “(ii) the Executive Body determina-  
9 tion, and basis for the determination, in  
10 the case of a determination described in  
11 paragraph (1)(C); and

12                 “(iii) the comments received by the  
13 Administrator in response to the Federal  
14 Register notice published pursuant to sub-  
15 section (a)(2)(A); and

16           “(C) request, for a chemical substance or  
17 mixture proposed for listing on Annex A or B  
18 of the POPs Convention or Annex 1 or 2 of the  
19 LRTAP POPs Protocol, information and public  
20 comment on any present or anticipated produc-  
21 tion or use of the chemical substance or mix-  
22 ture, including any explanation or documenta-  
23 tion of items relating thereto that the United  
24 States may use to—

1 “(i) seek an exemption or acceptable  
2 purpose under the POPs Convention; or

3 “(ii) allow a restricted use or condi-  
4 tion under the LRTAP POPs Protocol;  
5 and

6 “(c) NOTICE OF CONFERENCE RECOMMENDATION  
7 CONCERNING A LISTING OR COMPLETION OF A TECH-  
8 NICAL REVIEW.—

9 “(1) APPLICABILITY.—This subsection  
10 applies—

11 “(A) if the POPs Review Committee rec-  
12 ommends, under paragraph 9 of Article 8 of the  
13 POPs Convention, that the Conference consider  
14 making a Conference listing decision with re-  
15 spect to a chemical substance or mixture in ac-  
16 cordance with a proposal; or

17 “(B) after completion of a technical review  
18 of the proposal to list a chemical substance or  
19 mixture on an Annex of the LRTAP POPs Pro-  
20 tocol.

21 “(2) NOTICE.—Not later than 60 days after the  
22 date on which a recommendation under paragraph  
23 (1)(A) is made or a technical review described in  
24 paragraph (1)(B) is completed, the Administrator  
25 shall—

1           “(A) publish in the Federal Register a no-  
2           tice of the recommendation or completion of the  
3           technical review; and

4           “(B) provide opportunity for public com-  
5           ment on the recommendation or the technical  
6           review.

7           “(3) REQUIRED ELEMENTS.—A notice under  
8           paragraph (2) shall include a summary of—

9           “(A) the POPs Review Committee rec-  
10          ommendation, and the basis for the rec-  
11          ommendation, or of the technical review;

12          “(B) any control measures for the chemical  
13          substance or mixture that are proposed by the  
14          POPs Review Committee or in the technical re-  
15          view;

16          “(C) any control measures for the chemical  
17          substance or mixture that exist under the laws  
18          of the United States; and

19          “(D) any public comments received by the  
20          Administrator in response to the Federal Reg-  
21          ister notice published pursuant to subsection  
22          (b)(2).

23          “(d) PROVISION OF INFORMATION.—

24          “(1) UNDER POPS CONVENTION.—The Admin-  
25          istrator, where relevant, by general order issued in

1 the Federal Register may require any person, or ap-  
2 propriate categories of persons, that manufactures,  
3 processes, distributes in commerce for export, or dis-  
4 poses of a chemical substance or mixture that is the  
5 subject of a notice under subsection (a), (b), or (c)  
6 to provide information, to the extent such informa-  
7 tion is known or readily obtainable, on—

8 “(A) the annual quantity of the chemical  
9 substance or mixture that the person manufac-  
10 tures and the locations of the manufacture;

11 “(B) the uses of the chemical substance or  
12 mixture;

13 “(C) the approximate annual quantity of  
14 the chemical substance or mixture that the per-  
15 son releases into the environment; and

16 “(D) other information or monitoring data  
17 relating to the chemical substance or mixture  
18 that is consistent with the information specified  
19 in—

20 “(i) paragraph 1 of Annex D;

21 “(ii) subsections (b) through (e) of  
22 Annex E; and

23 “(iii) Annex F,  
24 to the POPs Convention.

1           “(2) UNDER LRTAP POPS PROTOCOL.—The Ad-  
2           ministrators, where relevant, by general order issued  
3           in the Federal Register, may require any person, or  
4           appropriate categories of persons, that manufac-  
5           tures, processes, distributes in commerce for export,  
6           or disposes of a chemical substance or mixture that  
7           is the subject of a notice under subsection (a), (b),  
8           or (c) to provide information, to the extent such in-  
9           formation is known or readily obtainable, on—

10                   “(A) the annual quantity of the chemical  
11                   substance or mixture that the person manufac-  
12                   tures and the locations of the manufacture;

13                   “(B) the uses of the chemical substance or  
14                   mixture;

15                   “(C) the approximate annual quantity of  
16                   the chemical substance or mixture that the per-  
17                   son releases into the environment;

18                   “(D) environmental monitoring data relat-  
19                   ing to the chemical substance or mixture (in  
20                   areas distant from sources);

21                   “(E) information on alternatives to the  
22                   uses of the chemical substance or mixture and  
23                   the efficacy of each alternative;

1           “(F) information on any known adverse  
2 environmental or human health effects associ-  
3 ated with each such alternative; and

4           “(G) other information or monitoring data  
5 relating to the chemical substance or mixture  
6 that is consistent with information specified in  
7 Executive Body Decision 1998/2 for inclusion in  
8 the risk profile or technical review.

9           “(3) UPDATING OF INFORMATION.—

10           “(A) VOLUNTARY UPDATES.—Any person  
11 who submits information under paragraph (1)  
12 or (2) may voluntarily update the information  
13 at any time.

14           “(B) REQUIRED UPDATES.—If the Admin-  
15 istrator determines, with the concurrence of the  
16 Secretary of State, that an update of informa-  
17 tion submitted under paragraph (1) or (2) is  
18 necessary, the Administrator may, through a  
19 general order published in the Federal Register,  
20 require all persons that are required to submit  
21 the information to update the information.

22           “(C) NEW INFORMATION.—As part of a  
23 general order published under subparagraph  
24 (B), the Administrator may require any person  
25 who, after the date specified in the general

1 order issued pursuant to paragraph (1) or (2)  
2 by which persons are required to submit infor-  
3 mation, commences manufacturing, processing,  
4 distributing in commerce for export, or dis-  
5 posing of a chemical substance or mixture sub-  
6 ject to the requirements in paragraph (1) or  
7 (2), to submit the information required to be  
8 submitted in the general order issued pursuant  
9 to paragraph (1) or (2).

10 “(e) ACTION BY THE ADMINISTRATOR UPON NEW  
11 LISTING OR OTHER CHANGES.—

12 “(1) RULEMAKING.—

13 “(A) AUTHORITY.—If either—

14 “(i) the Conference decides to amend  
15 Annex A or B of the POPs Convention to  
16 list an additional chemical substance or  
17 mixture; or

18 “(ii) the parties to the LRTAP POPs  
19 Protocol decide to amend Annex I or II to  
20 the LRTAP POPs Protocol to list an addi-  
21 tional chemical substance or mixture,

22 the Administrator may issue rules to prohibit or  
23 restrict the manufacture, processing, distribu-  
24 tion in commerce for export, use, or disposal of  
25 the additional chemical substance or mixture to

1 the extent necessary to protect human health  
2 and the environment in a manner that achieves  
3 a reasonable balance of social, environmental,  
4 and economic costs and benefits. The Adminis-  
5 trator may modify rules issued under this para-  
6 graph, consistent with the requirements of this  
7 paragraph.

8 “(B) SCOPE OF RULEMAKING.—The Ad-  
9 ministrator may issue rules under subparagraph  
10 (A) only to the extent necessary to meet the ob-  
11 ligations of the United States under the POPs  
12 Convention or LRTAP POPs Protocol if the  
13 United States were to consent to be bound for  
14 that applicable amendment referred to in sub-  
15 paragraph (A).

16 “(C) EFFECTIVE DATE FOR RULES.—No  
17 rule issued under this paragraph shall take ef-  
18 fect until the United States has consented to be  
19 bound by the amendment agreed to by a deci-  
20 sion under subparagraph (A)(i) or (ii).

21 “(2) CONSIDERATIONS.—In taking an action  
22 under paragraph (1), the Administrator shall  
23 consider—

24 “(A) a scientific assessment of the effects  
25 of such chemical substance or mixture on health

1 and the magnitude and impact of the exposure  
2 of human beings to such chemical substance or  
3 mixture;

4 “(B) a scientific assessment of the effects  
5 of such chemical substance or mixture on the  
6 environment and the magnitude and impact of  
7 the exposure of the environment to such chem-  
8 ical substance or mixture;

9 “(C) the benefits of such chemical sub-  
10 stance or mixture for various uses and the  
11 availability, risks, and economic consequences of  
12 substitutes for such uses, considering factors  
13 described in subparagraph (D);

14 “(D) the reasonably ascertainable economic  
15 consequences of the proposed prohibition or  
16 other regulation, after consideration of the ef-  
17 fect on the national economy, small business,  
18 technological innovation, the environment, and  
19 public health, including the degree to which the  
20 manufacture, processing, distribution in com-  
21 merce for export, use, or disposal of the chem-  
22 ical substance or mixture is necessary to pre-  
23 vent significant harm to an important sector of  
24 the economy; and

1           “(E) national and international con-  
2           sequences that are likely to arise as a result of  
3           domestic regulatory action (including the pos-  
4           sible consequences of using alternative products  
5           or processes).

6           “(3) ADDITIONAL CONSIDERATIONS.—The Ad-  
7           ministrators may also consider—

8           “(A) with regard to chemical substances or  
9           mixtures listed in Annex A or B of the POPs  
10          Convention—

11           “(i) recommendations of the POPs  
12          Review Committee under paragraph 9 of  
13          Article 8 of the POPs Convention;

14           “(ii) the Conference listing decision;  
15          and

16           “(iii) any information that the United  
17          States submits to the POPs Review Com-  
18          mittee or to the Conference pursuant to  
19          Article 8 of the POPs Convention; and

20           “(B) with regard to chemical substances or  
21          mixtures listed in Annex I or II of the LRTAP  
22          POPs Protocol—

23           “(i) any technical review conducted  
24          pursuant to paragraph 2 of the Executive  
25          Body Decision 1998/2;

1 “(ii) the LRTAP POPs Protocol list-  
2 ing decision; and

3 “(iii) any information that the United  
4 States submitted to the Executive Body, or  
5 a subsidiary of the Executive Body, in re-  
6 lation to such a technical review or listing  
7 decision.

8 “(4) ASSESSMENT OF RISKS OR EFFECTS.—In  
9 assessing risks and effects, the Administrator shall  
10 use sound and objective scientific practices, and  
11 shall determine the weight of the scientific evidence  
12 concerning such risks or effects based on the best  
13 available scientific information, including peer-re-  
14 viewed studies, in the rulemaking record.

15 “(5) COMMENTS AND INFORMATION PART OF  
16 RECORD.—The comments and information received  
17 in response to notices or orders published pursuant  
18 to subsections (a), (b), (c), and (d) shall be part of  
19 the record for a rule promulgated pursuant to this  
20 subsection.

21 “(f) EXEMPTIONS UNDER POPs CONVENTION.—

22 “(1) USE-SPECIFIC OR ACCEPTABLE PURPOSE  
23 EXEMPTIONS.—Prohibitions or restrictions included  
24 in rules issued under subsection (e)(1), and the pro-  
25 hibitions described in section 502(a), shall not apply

1 to any manufacture, processing, distribution in com-  
2 merce for export, use, or disposal of a POPs chem-  
3 ical substance or mixture that the Administrator de-  
4 termines, through final rules promulgated under  
5 subsection (e)(1), with the concurrence of the Sec-  
6 retary of State—

7 “(A) is consistent with—

8 “(i) a production or use-specific ex-  
9 emption available to the United States  
10 under Annex A or B to the POPs Conven-  
11 tion; or

12 “(ii) an acceptable purpose applicable  
13 to the United States under Annex B to the  
14 POPs Convention; and

15 “(B) would, as a result, not prevent the  
16 United States from complying with obligations  
17 or potential obligations of the United States  
18 with respect to that chemical substance or mix-  
19 ture under the POPs Convention.

20 “(2) UNINTENTIONAL TRACE CONTAMI-  
21 NANTS.—Prohibitions or restrictions included in  
22 rules issued under subsection (e)(1), and the prohi-  
23 bitions described in section 502(a), shall not apply  
24 to any quantity of a POPs chemical substance or

1 mixture that occurs as an unintentional trace con-  
2 taminant in a product or article.

3 “(3) RESEARCH.—Prohibitions or restrictions  
4 included in rules issued under subsection (e)(1), and  
5 the prohibitions described in section 502(a), shall  
6 not apply to any quantity of a POPs chemical sub-  
7 stance or mixture that is used for laboratory scale  
8 research or as a reference standard.

9 “(4) CONSTITUENT OF ARTICLE IN USE BE-  
10 FORE PROHIBITION APPLIED.—Prohibitions or re-  
11 strictions included in rules issued under subsection  
12 (e)(1), and the prohibitions described in section  
13 502(a), shall not apply to any quantity of a POPs  
14 chemical substance or mixture that occurs as a con-  
15 stituent of an article, if—

16 “(A) the article is manufactured or in use  
17 on or before the date of entry into force for the  
18 United States of the obligation applicable to the  
19 POPs chemical substance or mixture; and

20 “(B) the United States has met any appli-  
21 cable requirement of the POPs Convention to  
22 notify the Secretariat of the POPs Convention  
23 concerning the article.

24 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-  
25 MEDIATE EXEMPTION.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), prohibitions or restrictions included  
3 in rules issued under subsection (e)(1), and the  
4 prohibitions described in section 502(a), shall  
5 not apply to any quantity of a POPs chemical  
6 substance or mixture that is manufactured and  
7 used as a closed-system site-limited inter-  
8 mediate that is chemically transformed in the  
9 manufacture of other chemicals that do not ex-  
10 hibit the characteristics of persistent organic  
11 pollutants.

12           “(B) CONDITIONS.—Subparagraph (A) ap-  
13 plies if, before the commencement of the manu-  
14 facture or use under the POPs Convention, and  
15 before each 10-year period thereafter—

16                   “(i) any person that desires to invoke  
17 the exemption provides to the Adminis-  
18 trator information concerning—

19                           “(I) the annual total quantity of  
20 the POPs chemical substance or mix-  
21 ture anticipated to be manufactured  
22 or used, or a reasonable estimate of  
23 the quantity; and

24                           “(II) the nature of the closed  
25 system site-limited process, including

1 the quantity of any nontransformed  
2 and unintentional trace contamination  
3 by the POPs chemical substance or  
4 mixture that remains in the final  
5 product; and

6 “(ii) notwithstanding any other provi-  
7 sion of law, the Administrator—

8 “(I) determines, with the concur-  
9 rence of the Secretary of State, that  
10 the information provided under clause  
11 (i) is complete and sufficient; and

12 “(II) transmits the information  
13 to the Secretariat of the POPs Con-  
14 vention.

15 “(C) TERMINATION OF EXEMPTION.—If,  
16 at the termination of any exemption under sub-  
17 paragraph (A), a particular closed-system site-  
18 limited intermediate exemption is no longer au-  
19 thorized for the United States under the POPs  
20 Convention, no further exemption shall be avail-  
21 able under subparagraph (A).

22 “(6) DISTRIBUTION IN COMMERCE FOR EXPORT  
23 IF PRODUCTION OR USE-SPECIFIC EXEMPTION OR  
24 ACCEPTABLE PURPOSE IS IN EFFECT.—

1           “(A) IN GENERAL.—Prohibitions or re-  
2           strictions included in rules issued under sub-  
3           section (e)(1), and the prohibitions described in  
4           section 502(a), shall not apply to any distribu-  
5           tion in commerce for export of any POPs chem-  
6           ical substance or mixture for which a produc-  
7           tion or use specific exemption under Annex A to  
8           the POPs Convention available to the United  
9           States is in effect, or for which a production or  
10          use specific exemption or acceptable purpose  
11          under Annex B to the POPs Convention avail-  
12          able to the United States is in effect, unless—

13                 “(i) if the export is for purposes of  
14                 disposal, the export does not comply with  
15                 an export condition described in subpara-  
16                 graph (B), as determined by the Adminis-  
17                 trator in consultation with the heads of  
18                 other interested Federal agencies; or

19                 “(ii) the export does not comply with  
20                 an export condition described in subpara-  
21                 graph (C), or (D), as applicable, as deter-  
22                 mined by the Administrator in consultation  
23                 with the heads of other interested Federal  
24                 agencies and with the concurrence of the

1 Secretary of State and the United States  
2 Trade Representative.

3 “(B) EXPORT FOR ENVIRONMENTALLY  
4 SOUND DISPOSAL.—An export condition re-  
5 ferred to in subparagraph (A)(i) is that the  
6 POPs chemical substance or mixture is ex-  
7 ported for the purpose of environmentally sound  
8 disposal.

9 “(C) EXPORT TO PARTY WITH PERMISSION  
10 TO USE.—An export condition referred to in  
11 subparagraph (A)(ii) is that the POPs chemical  
12 substance or mixture is exported to a party to  
13 the POPs Convention that is permitted to use  
14 the POPs chemical substance or mixture under  
15 Annex A or B to the POPs Convention.

16 “(D) EXPORT TO NONPARTY THAT HAS  
17 PROVIDED NONPARTY CERTIFICATION.—

18 “(i) IN GENERAL.—An export condi-  
19 tion referred to in subparagraph (A)(ii) is  
20 that the POPs chemical substance or mix-  
21 ture is exported to an importing foreign  
22 state that—

23 “(I) is not a party to the POPs  
24 Convention with respect to the POPs  
25 chemical substance or mixture; and

1                   “(II) has provided an annual cer-  
2                   tification described in clause (ii) to  
3                   the Administrator.

4                   “(ii) COMMITMENTS BY IMPORTING  
5                   NONPARTY.—Consistent with the POPs  
6                   Convention, an annual nonparty certifi-  
7                   cation under clause (i) shall specify the in-  
8                   tended use of the POPs chemical substance  
9                   or mixture and state that, with respect to  
10                  the POPs chemical substance or mixture,  
11                  the importing nonparty is committed to—

12                   “(I) protecting human health and  
13                   the environment by taking necessary  
14                   measures to minimize or prevent re-  
15                   leases;

16                   “(II) complying with paragraph  
17                   1(d) of Article 6 of the POPs Conven-  
18                   tion; and

19                   “(III) complying, to the extent  
20                   appropriate, with paragraph 2 of Part  
21                   II of Annex B to the POPs Conven-  
22                   tion.

23                   “(iii) SUPPORTING DOCUMENTA-  
24                   TION.—Each nonparty certification shall  
25                   include any appropriate supporting docu-

1                   mentation, such as legislation, regulatory  
2                   instruments, and administrative or policy  
3                   guidelines.

4                   “(iv) SUBMISSION TO SECRETARIAT  
5                   OF POPS CONVENTION.—Not later than 60  
6                   days after the date of receipt of a complete  
7                   nonparty certification, the Administrator  
8                   shall submit a copy of the nonparty certifi-  
9                   cation to the Secretariat of the POPs Con-  
10                  vention.

11                  “(E) INFORMATION RELEVANT TO EX-  
12                  PORTS.—The Administrator, with the concur-  
13                  rence of the Secretary of State, shall make  
14                  available to the public, and keep current, a list  
15                  of—

16                         “(i) parties to the POPs Convention;

17                         “(ii) production and use specific ex-  
18                         emptions available to the United States;

19                         “(iii) parties to the POPs Convention  
20                         that are permitted to use each POPs  
21                         chemical substance or mixture under  
22                         Annex A or B of the POPs Convention;  
23                         and

24                         “(iv) chemical substances and mix-  
25                         tures for which no production or use spe-

1                   cific exemptions are in effect for any party  
2                   to the POPs Convention.

3                   “(7) EXPORT FOR ENVIRONMENTALLY SOUND  
4                   DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-  
5                   EMPTION IN EFFECT.—Prohibitions or restrictions  
6                   included in rules issued under subsection (e)(1), and  
7                   the prohibitions described in section 502(a), shall  
8                   not apply to any distribution in commerce for export  
9                   for the purpose of environmentally sound disposal of  
10                  a POPs chemical substance or mixture listed in  
11                  Annex A to the POPs Convention for which no pro-  
12                  duction or use specific exemption is in effect for any  
13                  party to the POPs Convention.

14                  “(8) IMPORTS FOR ENVIRONMENTALLY SOUND  
15                  DISPOSAL.—Prohibitions or restrictions included in  
16                  rules issued under subsection (e)(1), and the prohi-  
17                  bitions described in section 502(a), shall not apply  
18                  to a POPs chemical substance or mixture that is im-  
19                  ported for the purpose of environmentally sound dis-  
20                  posal.

21                  “(9) WASTE.—Prohibitions or restrictions in-  
22                  cluded in rules issued under subsection (e)(1), and  
23                  the prohibitions described in section 502(a), shall  
24                  not apply to any quantity of a POPs chemical sub-  
25                  stance or mixture, including any article that consists

1 of, contains, or is contaminated with a POPs chem-  
2 ical substance or mixture, that has become waste  
3 that is otherwise regulated under Federal law.

4 “(10) NO EFFECT ON OTHER PROHIBITIONS.—  
5 Nothing in this subsection authorizes any manufac-  
6 ture, processing, distribution in commerce for ex-  
7 port, use, or disposal of a POPs chemical substance  
8 or mixture that is prohibited under any other Act or  
9 any other title of this Act.

10 “(g) EXEMPTIONS UNDER LRTAP POPs PRO-  
11 TOCOL.—

12 “(1) IN GENERAL.—Prohibitions or restrictions  
13 included in rules issued under subsection (e)(1), and  
14 the prohibitions described in section 502(a), shall  
15 not apply to—

16 “(A) any manufacture, processing, dis-  
17 tribution in commerce for export, use, or dis-  
18 posal of a LRTAP POPs chemical substance or  
19 mixture that—

20 “(i) the Administrator determines,  
21 through final rules promulgated under sub-  
22 section (e)(1), with the concurrence of the  
23 Secretary of State, is consistent with an al-  
24 lowed restricted use or condition available

1 to the United States under Annex I or II  
2 to the LRTAP POPs Protocol; and

3 “(ii) the Administrator determines,  
4 through final rules promulgated under sub-  
5 section (e)(1), with the concurrence of the  
6 Secretary of State, would, as a result, not  
7 prevent the United States from complying  
8 with obligations or potential obligations of  
9 the United States with respect to that  
10 chemical substance or mixture under the  
11 LRTAP POPs Protocol;

12 “(B) any quantity of a LRTAP POPs  
13 chemical substance or mixture that is used for  
14 laboratory scale research or as a reference  
15 standard;

16 “(C) any quantity of a LRTAP POPs  
17 chemical substance or mixture that occurs as a  
18 contaminant in a product;

19 “(D) any quantity of a LRTAP POPs  
20 chemical substance or mixture that is in an ar-  
21 ticle manufactured or in use on or before—

22 “(i) the implementation date for the  
23 United States of any applicable obligation  
24 under the LRTAP POPs Protocol; or

1           “(ii) in the case of any LRTAP POPs  
2           chemical substance or mixture added to  
3           any applicable Annex after the implemen-  
4           tation date for the United States of the ap-  
5           plicable obligation of the LRTAP POPs  
6           Protocol, the implementation date in the  
7           amendment to the LRTAP POPs Protocol  
8           that makes the addition;

9           “(E) any quantity of a LRTAP POPs  
10          chemical substance or mixture that occurs as a  
11          site-limited chemical intermediate in the manu-  
12          facture of 1 or more different substances and  
13          that is subsequently chemically transformed;

14          “(F) the production of HCH, the use of  
15          technical HCH (i.e., HCH mixed isomers) as an  
16          intermediate in chemical manufacturing, and  
17          the use of products in which 99 percent of the  
18          HCH isomer is in the gamma form (i.e. lin-  
19          dane, CAS:58-89-9) so long as such use is re-  
20          stricted to—

21                  “(i) seed treatment; and

22                  “(ii) public health,

23          unless the Administrator, by rule, restricts the  
24          application of this subparagraph consistent with

1 an amendment to the LRTAP POPs Protocol  
2 specifically addressing HCH;

3 “(G) any quantity of a LRTAP POPs  
4 chemical substance or mixture that has become  
5 waste that is otherwise regulated under Federal  
6 law;

7 “(H) any distribution in commerce for ex-  
8 port of a LRTAP POPs chemical substance or  
9 mixture if the distribution in commerce for ex-  
10 port is conducted in an environmentally sound  
11 manner; or

12 “(I) any import of a LRTAP POPs chem-  
13 ical substance or mixture if the import is con-  
14 ducted in an environmentally sound manner.

15 “(2) EXEMPTIONS BY ADMINISTRATOR.—The  
16 Administrator may grant an exemption from prohi-  
17 bitions or restrictions included in rules issued under  
18 subsection (e)(1), and the prohibitions described in  
19 section 502(a), that the Administrator, in concu-  
20 rrence with the Secretary of State, determines is con-  
21 sistent with the exemptions authorized under para-  
22 graph 2 of Article 4 of the LRTAP POPs Protocol.

23 “(3) EXEMPTIONS BY PETITION.—

24 “(A) PETITIONS.—A person may petition  
25 the Administrator for an exemption from prohi-

1           bitions or restrictions included in rules issued  
2           under subsection (e)(1), and the prohibitions  
3           described in section 502(a).

4           “(B) GRANT OR DENIAL OF PETITION.—  
5           The Administrator, with the concurrence of the  
6           Secretary of State, shall—

7                   “(i) if the petition is authorized for  
8                   the United States under, and is otherwise  
9                   consistent with, the LRTAP POPs Pro-  
10                  tocol, grant the petition with such condi-  
11                  tions or limitations as are necessary to  
12                  meet any requirement of the LRTAP  
13                  POPs Protocol or any other provision of  
14                  law; or

15                   “(ii) deny the petition.

16           “(4) PROVISION OF INFORMATION TO SECRE-  
17           TARIAT.—If the Administrator grants an exemption  
18           under paragraph (2) or (3), the Administrator, not  
19           later than 90 days after the date on which the ex-  
20           emption is granted, shall provide the Secretariat of  
21           the LRTAP POPs Protocol with the information  
22           specified in paragraph 3 of Article 4 of the LRTAP  
23           POPs Protocol.

24           “(5) DISALLOWANCE OF EXEMPTION BY LRTAP  
25           POPS PROTOCOL.—

1           “(A) IN GENERAL.—If, after an exemption  
2           has been granted under paragraph (2) or (3),  
3           the exemption is no longer consistent with the  
4           requirements of paragraph (2) or (3), the Ad-  
5           ministrators shall withdraw the grant of such ex-  
6           emption.

7           “(B) PUBLICATION OF NOTICE IN FED-  
8           ERAL REGISTER.—The Administrator shall pub-  
9           lish in the Federal Register a notice announcing  
10          the withdrawal under subparagraph (A) of any  
11          exemption.

12          “(6) NO EFFECT ON OTHER PROHIBITIONS.—  
13          Nothing in this subsection authorizes any manufac-  
14          ture, processing, distribution in commerce for ex-  
15          port, use, or disposal of a LRTAP POPs chemical  
16          substance or mixture that is prohibited under any  
17          other Act or any other title of this Act.

18          “(h) HARMONIZATION OF POPS CONVENTION AND  
19          LRTAP POPs PROTOCOL.—

20          “(1) IN GENERAL.—If a chemical substance or  
21          mixture is both a POPs chemical substance or mix-  
22          ture and a LRTAP POPs chemical substance or  
23          mixture, in the case of a conflict between a provision  
24          of subsection (f) applicable to a POPs chemical sub-  
25          stance or mixture and a provision of subsection (g)

1 applicable to a LRTAP POPs chemical substance or  
2 mixture, the more stringent provision shall apply, as  
3 determined by the Administrator with the concur-  
4 rence of the Secretary of State.

5 “(2) APPLICATION.—In the case of a chemical  
6 substance or mixture described in paragraph (1),  
7 subsections (f) and (g) shall be applied in such a  
8 manner as to ensure that the United States is in  
9 compliance with the POPs Convention and the  
10 LRTAP POPs Protocol with respect to the chemical  
11 substance or mixture.

12 “(i) ACTION BY THE ADMINISTRATOR UPON ADDI-  
13 TION OF SOURCE CATEGORIES.—

14 “(1) APPLICABILITY.—If the Conference de-  
15 cides to amend Annex C of the POPs Convention to  
16 add to Part II new source categories not already  
17 listed under section 112(c) of the Clean Air Act (42  
18 U.S.C. 7412(c)) as major source categories, such de-  
19 cision shall be published in the Federal Register.

20 “(2) CONFERENCE DECISION NOTICE.—A no-  
21 tice of a Conference decision published in the Fed-  
22 eral Register pursuant to paragraph (1) of this sub-  
23 section shall identify the source category or cat-  
24 egories that are the subject of the decision. The no-

1       tice shall include a summary of the Conference deci-  
2       sion and request information and public comment.

3       “(j) ACTION PLANS.—

4               “(1) APPLICABILITY.—This subsection applies  
5       if the United States—

6               “(A) develops an action plan under Article  
7       5(a) of the POPs Convention;

8               “(B) undertakes a review of a submitted  
9       action plan under Article 5(a)(v) of the POPs  
10       Convention;

11              “(C) requires, under Article 5(c) of the  
12       POPs Convention, substitute or modified mate-  
13       rials, products, or processes; or

14              “(D) requires, under Article 5(d) of the  
15       POPs Convention, the use of best available  
16       techniques.

17              “(2) REQUIREMENT.—Not later than 90 days  
18       after the date of an action described in paragraph  
19       (1), the Administrator shall—

20              “(A) publish in the Federal Register a no-  
21       tice of such action; and

22              “(B) provide opportunity for public com-  
23       ment on any action plan, review of an action  
24       plan, or requirement to be established pursuant  
25       to Article 5(c) or (d) of the POPs Convention.

1           “(3) AUTHORITY TO IMPLEMENT ACTION  
2           PLAN.—An action to implement an action plan de-  
3           veloped under Article 5(a) of the POPs Convention  
4           may be taken only to the extent that such action is  
5           authorized under the statutes of the United States.

6   **“SEC. 504. AMENDMENTS AND CONSULTATION.**

7           “(a) CONSENT TO BE BOUND.—The United States  
8           shall consent to be bound by an amendment to Annex A,  
9           B, or C of the POPs Convention only after, pursuant to  
10          paragraph (4) of Article 25 of the POPs Convention, the  
11          United States has declared that such amendment shall  
12          enter into force upon ratification, acceptance, approval, or  
13          accession of the United States to such amendment.

14          “(b) CONSULTATION.—

15                 “(1) IN GENERAL.—The President shall, as ap-  
16                 propriate, consult with Congress before consenting  
17                 to bind the United States to an amendment to  
18                 Annex A, B, or C of the POPs Convention.

19                 “(2) REPORTING.—The President shall provide  
20                 such other information relating to an amendment  
21                 described in paragraph (1) as the Congress may re-  
22                 quest in the fulfillment of its constitutional respon-  
23                 sibilities with respect to the protection of public  
24                 health and the environment.

1           “(3) CONGRESSIONAL OVERSIGHT.—Informa-  
2           tion provided pursuant to paragraph (2) shall be  
3           transmitted to the Committee on Energy and Com-  
4           merce of the House of Representatives and to the  
5           Committee on Environment and Public Works of the  
6           Senate for appropriate action.

7   **“SEC. 505. INTERNATIONAL COOPERATION AND NOTICE OF**  
8                                   **MEETINGS.**

9           “In cooperation with the Secretary of State and the  
10          head of any other appropriate Federal agency, the Admin-  
11          istrator shall—

12                   “(1) participate and cooperate in any inter-  
13                   national efforts to develop improved research and  
14                   regulations on chemical substances and mixtures;

15                   “(2) participate in technical cooperation and ca-  
16                   pacity building activities designed to support imple-  
17                   mentation of—

18                                   “(A) the POPs Convention;

19                                   “(B) the LRTAP POPs Protocol; and

20                                   “(C) the PIC Convention; and

21                   “(3) publish in the Federal Register timely ad-  
22                   vance notice of the known schedule and agenda of  
23                   meetings on the POPs Convention, PIC Convention,  
24                   and LRTAP POPs Protocol, and their subsidiary

1 bodies, at which the United States will be rep-  
2 resented.

3 **“SEC. 506. EFFECT OF REQUIREMENTS.**

4 “Any provision of this Act that establishes a require-  
5 ment to comply with, or that is based on, a provision of  
6 the POPs Convention, the LRTAP POPs Protocol, or the  
7 PIC Convention shall be effective only to the extent that  
8 the United States has consented to be bound by that provi-  
9 sion.”.

10 **SEC. 3. POLYCHLORINATED BIPHENYLS (PCBS).**

11 Section 6(e) of the Toxic Substance Control Act (15  
12 U.S.C. 2605(e)) is amended—

13 (1) by adding at the end of paragraph (3) the  
14 following new subparagraph:

15 “(D) The Administrator may not, after the date of  
16 enactment of this subparagraph, grant an exemption  
17 under subparagraph (B) unless the manufacturing, proc-  
18 essing, or distribution in commerce with respect to which  
19 such exemption applies is authorized under section 503(f)  
20 or (g), subject to section 503(h).”; and

21 (2) by adding at the end the following new  
22 paragraph:

23 “(6) Notwithstanding any other provision of this sub-  
24 section, no person may distribute in commerce for export  
25 equipment (including transformers, capacitors, and other

1 receptacles) containing greater than 0.05 liters of liquid  
2 stock that contains greater than 0.005 percent poly-  
3 chlorinated biphenyls, except for the purpose of environ-  
4 mentally sound waste management to the extent that such  
5 distribution in commerce for export is authorized by Fed-  
6 eral law.”.

7 **SEC. 4. JUDICIAL REVIEW.**

8 Section 19 of the Toxic Substances Control Act (15  
9 U.S.C. 2618) is amended—

10 (1) in subsection (a)(1)(A), by striking “or IV”  
11 and inserting “, IV, or V”;

12 (2) in subsection (a)(3)(B), by striking “title  
13 IV, the finding” and inserting “title IV or V, the  
14 findings”;

15 (3) by striking “and” at the end of subpara-  
16 graph (D) of subsection (a)(3);

17 (4) by redesignating subparagraph (E) of sub-  
18 section (a)(3) as subparagraph (F);

19 (5) by inserting after subparagraph (D) of sub-  
20 section (a)(3) the following new subparagraph:

21 “(E) for rules promulgated under section  
22 503(e), any written submission or other information  
23 the Administrator receives pursuant to subsection  
24 (a), (b), (c), or (d) of section 503; and”.

1 (6) in subsection (b), by inserting “(except a  
2 rule promulgated pursuant to section 503)” after  
3 “this section to review a rule”; and

4 (7) in subsection (c)(1)(B)(i), by striking “or  
5 6(e)” and inserting “6(e), or 503(e)(1)”.

6 **SEC. 5. EXPORTS.**

7 Section 12 of the Toxic Substances Control Act (15  
8 U.S.C. 2611) is amended—

9 (1) in subsection (a)(1), by striking “subsection  
10 (b), this Act (other than section 8)” and inserting  
11 “subsections (b) and (c), this Act (other than section  
12 8 and title V)”; and

13 (2) by adding at the end the following new sub-  
14 section:

15 “(c) EXPORTS UNDER THE PIC CONVENTION AND  
16 POPS CONVENTION.—

17 “(1) EXPORT CONDITIONS OR RESTRICTIONS.—

18 In the case of a chemical substance or mixture iden-  
19 tified by the Administrator as listed on Annex III of  
20 the PIC Convention in a notice issued under para-  
21 graph (4)(C), any person that distributes in com-  
22 merce for export the chemical substance or mixture  
23 shall comply with any export conditions or restric-  
24 tions identified by the Administrator in the notice.

25 “(2) PRE-EXPORT NOTICES.—

1 “(A) IN GENERAL.—

2 “(i) REQUIREMENT.—In the case of—

3 “(I) a chemical substance or mix-  
4 ture that the Administrator deter-  
5 mines to be banned or severely re-  
6 stricted under paragraph (4)(A);

7 “(II) a chemical substance or  
8 mixture identified by the Adminis-  
9 trator in a notice issued under para-  
10 graph (4)(C); or

11 “(III) a POPs chemical sub-  
12 stance or mixture (for which a listing  
13 under Annex A or Annex B of the  
14 POPs Convention has entered into  
15 force for the United States), the ex-  
16 port of which is not prohibited by sec-  
17 tion 502(a) or rules promulgated pur-  
18 suant to section 503(e),

19 the exporter of the chemical substance or  
20 mixture shall provide to the Administrator  
21 notice of the intent of the exporter to ex-  
22 port the chemical substance or mixture.

23 “(ii) TIMING OF NOTICE FOR CHEM-  
24 ICAL SUBSTANCES OR MIXTURES THAT ARE  
25 BANNED OR SEVERELY RESTRICTED.—

1                   “(I) FIRST EXPORT.—In the case  
2 of a first export that an exporter  
3 makes from the United States to each  
4 importing foreign state after the Ad-  
5 ministrator issues a notice under  
6 paragraph (4)(A), the exporter shall  
7 provide the notice required under  
8 clause (i) so that the Administrator  
9 receives the notice not earlier than 45  
10 nor later than 15 calendar days before  
11 the date of export.

12                   “(II) SUBSEQUENT EXPORTS.—  
13 In the case of subsequent exports to  
14 the importing foreign state in cal-  
15 endar years subsequent to the notifi-  
16 cation provided under subclause (I),  
17 the exporter shall provide the notice  
18 so that the Administrator receives the  
19 notice not earlier than 45 nor later  
20 than 15 calendar days before the date  
21 of the first export in such calendar  
22 year.

23                   “(iii) TIMING OF NOTICE FOR CHEM-  
24 ICAL SUBSTANCES OR MIXTURES LISTED  
25 UNDER THE PIC CONVENTION.—

1                   “(I) FIRST EXPORT.—In the case  
2 of a first export that an exporter  
3 makes from the United States to each  
4 importing foreign state after the Ad-  
5 ministrator issues a notice under  
6 paragraph (4)(C), the exporter shall  
7 provide the notice required under  
8 clause (i) so that the Administrator  
9 receives the notice not earlier than 45  
10 nor later than 15 calendar days before  
11 the date of export.

12                   “(II) SUBSEQUENT EXPORTS.—  
13 In the case of subsequent exports by  
14 the exporter to the importing foreign  
15 state in calendar years subsequent to  
16 the notification provided under sub-  
17 clause (I), the exporter shall provide  
18 the notice so that the Administrator  
19 receives the notice not earlier than 45  
20 nor later than 15 calendar days before  
21 the date of the first such export.

22                   “(III) CHANGED CIRCUMSTANCES  
23 MERITING NEW NOTICE.—If condi-  
24 tions or restrictions imposed by the  
25 importing foreign state change and

1 the Administrator notifies the public  
2 of the change under paragraph  
3 (4)(C), or if circumstances described  
4 by the exporter in an earlier pre-ex-  
5 port notice have substantially  
6 changed, the exporter shall provide an  
7 additional notice under this subpara-  
8 graph so that the Administrator re-  
9 ceives the notice not earlier than 45  
10 nor later than 15 calendar days before  
11 the date of export.

12 “(iv) TIMING OF PRE-EXPORT NOTICE  
13 FOR THE EXPORT OF POPS CHEMICAL SUB-  
14 STANCES OR MIXTURES WHICH ARE NOT  
15 PROHIBITED UNDER THE POPS CONVEN-  
16 TION.—

17 “(I) FIRST EXPORT.—In the case  
18 of the first export that an exporter  
19 makes from the United States to each  
20 importing foreign state of a chemical  
21 substance or mixture not prohibited  
22 from being exported by the prohibition  
23 in section 502(a) or rules promulgated  
24 pursuant to section 503(e), the ex-  
25 porter shall provide the notice under

1 this subparagraph so that the Admin-  
2 istrator receives the notice not earlier  
3 than 45 nor later than 15 calendar  
4 days before the date of the first ex-  
5 port.

6 “(II) SUBSEQUENT EXPORTS.—  
7 In the case of subsequent exports by  
8 the exporter to the importing foreign  
9 state in calendar years subsequent to  
10 the notification provided under sub-  
11 clause (I), the exporter shall provide  
12 the notice so that the Administrator  
13 receives the notice not earlier than 45  
14 nor later than 15 calendar days before  
15 the date of the first such subsequent  
16 export in such calendar year.

17 “(III) CHANGED CIRCUMSTANCES  
18 MERITING NEW NOTICE.—If the cir-  
19 cumstances described by the exporter  
20 in an earlier pre-export notice have  
21 substantially changed, the exporter  
22 shall provide an additional notice  
23 under this subparagraph so that the  
24 Administrator receives the notice not

1 earlier than 45 nor later than 15 cal-  
2 endar days before the date of export.

3 “(B) ALTERNATE TIME FRAME FOR NO-  
4 TICES.—

5 “(i) DISCRETIONARY ALTERNATE  
6 TIME FRAMES.—Notwithstanding clauses  
7 (ii) and (iii) of subparagraph (A), the Ad-  
8 ministrator may set an alternate time  
9 frame for providing notices under this sub-  
10 paragraph if the Administrator determines  
11 that such alternate time frame is appro-  
12 priate and the Administrator is able, with-  
13 in such alternate time frame, to administer  
14 notice activities in accordance with the PIC  
15 Convention and comply with the POPs  
16 Convention.

17 “(ii) MANDATORY REVIEW OF STATU-  
18 TORY TIME FRAMES AND PROCESSES.—  
19 Not later than 18 months after entry into  
20 force for the United States of the PIC  
21 Convention, and not later than 18 months  
22 after entry into force for the United States  
23 of the POPs Convention, the Adminis-  
24 trator shall review the statutory time  
25 frames for receipt of pre-export notices

1 under this subparagraph and the Adminis-  
2 trator's processing of such notices. In such  
3 review, the Administrator, with the concur-  
4 rence of the Secretary of State, shall con-  
5 sider whether amendments to the time  
6 frames and modifications to the processes  
7 would be appropriate to administer notice  
8 activities in accordance with the PIC Con-  
9 vention and to comply with the POPs Con-  
10 vention.

11 “(C) CONTENT OF PRE-EXPORT NO-  
12 TICES.—

13 “(i) NOTICES FOR BANNED OR SE-  
14 VERELY RESTRICTED CHEMICAL SUB-  
15 STANCE OR MIXTURE.—A notice under  
16 subparagraph (A)(ii) with respect to a  
17 chemical substance or mixture that is  
18 banned or severely restricted shall include  
19 for each export anticipated during that cal-  
20 endar year—

21 “(I) the name and address of the  
22 exporter;

23 “(II) the name and address of  
24 the appropriate designated national  
25 authority of the United States;

1                   “(III) the name and address of  
2                   the appropriate designated national  
3                   authority of the importing foreign  
4                   state, if available;

5                   “(IV) the name and address of  
6                   the importer;

7                   “(V) the name of the chemical  
8                   substance or mixture for which the  
9                   notice is required;

10                  “(VI) the expected date of ex-  
11                  port;

12                  “(VII) information relating to  
13                  the foreseen uses of the chemical sub-  
14                  stance or mixture, if known, in the  
15                  importing foreign state;

16                  “(VIII) information on pre-  
17                  cautionary measures to reduce expo-  
18                  sure to, and emission of, the chemical  
19                  substance or mixture;

20                  “(IX) information relating to the  
21                  concentration of the chemical sub-  
22                  stance or mixture; and

23                  “(X) any other information that  
24                  the Administrator determines, in a  
25                  general order published in the Federal

1 Register, is required by Annex V of  
2 the PIC Convention to be included in  
3 such a notice.

4 “(ii) NOTICES FOR CHEMICAL SUB-  
5 STANCES OR MIXTURES LISTED ON ANNEX  
6 III OF THE PIC CONVENTION.—A notice  
7 under subparagraph (A)(ii) with respect to  
8 a chemical substance or mixture listed on  
9 Annex III of the PIC Convention shall in-  
10 clude for each export anticipated during  
11 that calendar year—

12 “(I) all of the information re-  
13 quired to be included under clause (i);

14 “(II) any information relating to  
15 export conditions or restrictions iden-  
16 tified by the Administrator in the no-  
17 tice issued under paragraph (4)(C)  
18 with respect to the chemical substance  
19 or mixture;

20 “(III) a general description of  
21 the manner in which the export com-  
22 plies with those conditions; and

23 “(IV) any other information that  
24 the Administrator determines by gen-  
25 eral order published in the Federal

1 Register to be necessary for effective  
2 enforcement of the export conditions  
3 or restrictions applicable to the chem-  
4 ical substance or mixture.

5 “(iii) NOTICES FOR CHEMICAL SUB-  
6 STANCE OR MIXTURE THE EXPORT OF  
7 WHICH IS NOT PROHIBITED UNDER THE  
8 POPS CONVENTION.—A notice submitted to  
9 the Administrator under subparagraph  
10 (A)(iii) shall include—

11 “(I) the name and address of the  
12 exporter;

13 “(II) the name and address of  
14 the importer;

15 “(III) a name of the POPs chem-  
16 ical substance or mixture;

17 “(IV) a general description of  
18 how the export is in accordance with  
19 the provisions related to export in sec-  
20 tion 503(f)(6) or (7); and

21 “(V) such other information as  
22 the Administrator determines by gen-  
23 eral order published in the Federal  
24 Register to be necessary for enforce-  
25 ment of the export-related obligations

1 of the POPs Convention applicable to  
2 the United States for that chemical  
3 substance or mixture.

4 “(D) PRE-EXPORT NOTICES ACCOM-  
5 PANYING EACH EXPORT.—An exporter shall en-  
6 sure that a copy of the most recent applicable  
7 pre-export notice provided to the Administrator  
8 under this subsection accompanies each ship-  
9 ment for export and is available for inspection  
10 upon export for—

11 “(i) any chemical substance or mix-  
12 ture that the Administrator has identified  
13 under paragraph (4)(C) as being listed on  
14 Annex III of the PIC Convention; or

15 “(ii) any POPs chemical substance or  
16 mixture that is exported.

17 “(E) RETENTION OF PRE-EXPORT NO-  
18 TICES.—An exporter required to provide a no-  
19 tice under subparagraph (A) shall maintain a  
20 copy of the notice and other documents used to  
21 generate the notice and have it readily available  
22 for a period of no less than 3 years beginning  
23 on the date on which the notice is provided.

24 “(3) LABELING AND DOCUMENT REQUIRE-  
25 MENTS.—

1           “(A) IN GENERAL.—In the case of any  
2 chemical substance or mixture that is the sub-  
3 ject of a notice issued under subparagraph (A)  
4 or (C) of paragraph (4) and that is manufac-  
5 tured, processed, or distributed in commerce,  
6 the chemical substance or mixture shall, in ac-  
7 cordance with the PIC Convention—

8                   “(i) bear labeling information relating  
9 to risks or hazards to human health or the  
10 environment; and

11                   “(ii) be accompanied by shipping doc-  
12 uments that include any relevant safety  
13 data sheets on the chemical substance or  
14 mixture.

15           “(B) CUSTOM CODES.—A chemical sub-  
16 stance or mixture that is the subject of a notice  
17 issued under paragraph (4)(C) and that is dis-  
18 tributed or sold for export shall be accompanied  
19 by shipping documents that bear, at a min-  
20 imum, any appropriate harmonized system cus-  
21 toms codes assigned by the World Customs Or-  
22 ganization.

23           “(4) NOTICE REQUIREMENTS AND EXEMP-  
24 TION.—

1                   “(A) DETERMINATION WHETHER CHEM-  
2                   ICAL SUBSTANCE OR MIXTURE IS BANNED OR  
3                   SEVERELY RESTRICTED.—

4                   “(i) IN GENERAL.—The Adminis-  
5                   trator, with the concurrence of the Sec-  
6                   retary of State, shall determine whether a  
7                   chemical substance or mixture is banned or  
8                   severely restricted within the United States  
9                   (as those terms are defined by the PIC  
10                  Convention).

11                  “(ii) NOTICE OF DETERMINATIONS.—  
12                  Notwithstanding any other provision of  
13                  law, the Administrator shall issue to the  
14                  Secretariat of the PIC Convention and the  
15                  public a notice of each determination  
16                  under clause (i) that includes—

17                  “(I) in the case of a notice to the  
18                  Secretariat of the PIC Convention,  
19                  the information specified in Annex I  
20                  to the PIC Convention; and

21                  “(II) in the case of a notice to  
22                  the public, at a minimum, a summary  
23                  of that information.

24                  “(B) NOTICE TO FOREIGN COUNTRIES.—

1           “(i) IN GENERAL.—Notwithstanding  
2 any other provision of law, on receipt of a  
3 notice of intent to export a chemical sub-  
4 stance or mixture that is banned or se-  
5 verely restricted under paragraph  
6 (2)(A)(ii), the Administrator shall provide  
7 a copy of the notice to the designated na-  
8 tional authority of the importing foreign  
9 state.

10           “(ii) NONIDENTIFIED DESIGNATED  
11 NATIONAL AUTHORITY.—In a case in  
12 which a designated national authority has  
13 not been identified, the Administrator shall  
14 provide the notice of intent to export to  
15 any other appropriate official of the im-  
16 porting foreign state, as identified by the  
17 Administrator.

18           “(C) NOTICE TO PUBLIC.—

19           “(i) IN GENERAL.—The Adminis-  
20 trator, with the concurrence of the Sec-  
21 retary of State, shall issue a notice to in-  
22 form the public of—

23                   “(I) any chemical substance or  
24 mixture that is listed on Annex III to  
25 the PIC Convention; and

1                   “(II) any condition or restriction  
2                   of an importing foreign state that is  
3                   applicable to the import, in accord-  
4                   ance with the PIC Convention, of the  
5                   chemical substance or mixture.

6                   “(ii) TIMING.—A notice required  
7                   under clause (i) shall be issued not later  
8                   than 90 days after, and any conditions or  
9                   restrictions described in clause (i)(II) shall  
10                  take effect not later than 180 days after,  
11                  the date of receipt of a notice, from the  
12                  Secretariat of the PIC Convention, that—

13                  “(I) transmits import decisions of  
14                  the parties to the PIC Convention; or

15                  “(II) provides notice of the fail-  
16                  ure of the parties to provide import  
17                  decisions.

18                  “(iii) TREATMENT OF CONDITIONS  
19                  AND RESTRICTIONS.—A condition or re-  
20                  striction identified by a notice required  
21                  under clause (i) shall be considered to be  
22                  an export condition or restriction for the  
23                  purpose of paragraph (1).

24                  “(D) NOTICE OF EXEMPTION.—The Ad-  
25                  ministrator may issue a notice exempting any

1 chemical substance or mixture from the require-  
2 ments of paragraphs (1) through (3) if the Ad-  
3 ministrator determines, with the concurrence of  
4 the Secretary of State, that the exemption  
5 would be consistent with the PIC Convention or  
6 POPs Convention.

7 “(5) CONSOLIDATION OF NOTICES.—With re-  
8 spect to any pre-export notice requirement under  
9 this subsection, the Administrator shall allow any  
10 such requirement, and any pre-export notice require-  
11 ment in other provisions of this Act, to be satisfied  
12 by a single notice, and allow the export of trace con-  
13 centrations of otherwise restricted or banned chemi-  
14 cals if the Administrator finds that the export of  
15 such concentrations without notification does not  
16 pose a significant threat to human health or the en-  
17 vironment and is not inconsistent with the PIC Con-  
18 vention, the POPs Convention, and the LRTAP  
19 POPs Protocol.”.

20 **SEC. 6. CONFORMING AMENDMENTS.**

21 (a) The table of contents in section 1 of the Toxic  
22 Substances Control Act is amended by adding at the end  
23 the following:

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

“Sec. 501. Definitions.

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol.

“Sec. 503. Notice, information, rulemaking, and exemptions.

“Sec. 504. Amendments and consultation.

“Sec. 505. International cooperation and notice of meetings.

“Sec. 506. Effect of requirements.”.

1 (b) Section 11 of the Toxic Substances Control Act  
2 (15 U.S.C. 2610) is amended in subsections (a) and (b)  
3 by striking “title IV” each place it appears and inserting  
4 “title IV or title V”.

5 (c) Section 15 of the Toxic Substances Control Act  
6 (15 U.S.C. 2614) is amended—

7 (1) in paragraph (1), by inserting “or any re-  
8 quirement prescribed under title V or rule or order  
9 promulgated or issued under title V” after “under  
10 title II”; and

11 (2) in paragraph (2), by inserting “, or any re-  
12 quirement prescribed under title V or rule or order  
13 promulgated or issued under title V” after “under  
14 section 5 or 7”.

15 (d) Section 17 of the Toxic Substances Control Act  
16 (15 U.S.C. 2616) is amended—

17 (1) in subsection (a)(1)—

18 (A) by striking subparagraph (B) and in-  
19 serting the following:

20 “(B) restrain any person from taking any ac-  
21 tion prohibited by section 5 or 6, or title IV or V  
22 (or a rule or order issued under any of those sec-  
23 tions or titles);”;

1 (B) in subparagraphs (A) and (C), by  
2 striking the comma at the end and inserting a  
3 semicolon; and

4 (C) in subparagraph (D)—

5 (i) by striking “title IV manufac-  
6 tured” and inserting “title IV or V manu-  
7 factured”; and

8 (ii) by striking “section 5, 6, or title  
9 IV” each place it appears and inserting  
10 “section 5 or 6, or title IV or V”; and

11 (2) in the first sentence of subsection (b), by in-  
12 serting “or V” after “title IV”.

13 (e) Section 18(a)(2) of the Toxic Substances Control  
14 Act (15 U.S.C. 2617(a)(2)) is amended—

15 (1) in subparagraph (A), by striking “and” at  
16 the end;

17 (2) in subparagraph (B), by striking the period  
18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(C) no State or political subdivision may es-  
21 tablish or continue in effect any requirement that is  
22 applicable to a POPs chemical substance or mixture  
23 or LRTAP POPs chemical substance or mixture (as  
24 defined in title V) for which a listing under Annex  
25 A or B of the POPs Convention or Annex I or II

1 of the LRTAP POPs Protocol has entered into force  
2 for the United States (except as permitted in section  
3 116 of the Clean Air Act).”.